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February 10, 2021

**VIA ECF**The Honorable Andrew L. Carter, Jr.  
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Thurgood Marshall  
United States Courthouse  
40 Foley Square  
New York, NY 10007MATTHEW W. ABBOTT  
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\*NOT ADMITTED TO THE NEW YORK BAR

MEMO ENDORSED

Re: *Ferguson, et al. v. Ruane, Cunniff & Goldfarb, Inc., et al.*, 17-CV-06685-ALC

Dear Judge Carter:

We represent the DST Defendants in this action.<sup>1</sup> Pursuant to Your Honor's Individual Practices, we write to request permission to file certain exhibits related to the DST Defendants' Response to the Arbitration Claimants' Opposition to *Ferguson* Plaintiffs' Motion for Preliminary Approval of Class Action Settlement and for Related Relief (the "Response") under seal.

As Your Honor is aware, Arbitration Counsel in the above-captioned action represent numerous arbitration claimants. Certain exhibits we intend to submit in support of the Response contain information related to the arbitrations brought by Arbitration Counsel on behalf of their clients. Those materials include:

<sup>1</sup> The "DST Defendants" are DST Systems, Inc. ("DST"), the Advisory Committee of the DST Systems, Inc. 401(k) Profit Sharing Plan (the "Advisory Committee"), and the Compensation Committee of the Board of Directors of DST (the "Compensation Committee").

The Honorable Andrew L. Carter, Jr.

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- An arbitrator's order (Declaration of Jeffrey J. Recher dated February 10, 2021 ("Recher Decl.") Ex. A); and,
- An excerpt from a report by Dr. Donald M. May, Arbitration Claimants' expert. (Recher Decl. Ex. B).

One of the arbitration agreements entered into by the parties provides that "[t]he arbitration and hearing shall be confidential, but only to the extent allowed under applicable law." Out of an abundance of caution, the DST Defendants request that the foregoing materials be filed under seal in order to protect the confidentiality interests of the arbitration claimants, if any, in the contents of their arbitration proceedings.

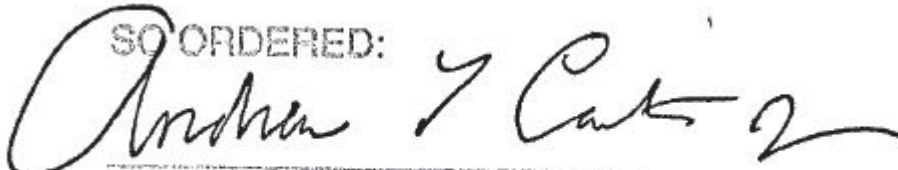
While a presumption of public access applies to judicial documents, *i.e.*, documents relevant to the performance of the judicial function and useful in the judicial process, the weight of the presumption is "governed by the role of the material at issue" and the resulting value of such information to the public. *See Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119 (2d Cir. 2006); *United States v. Amodeo* ("Amodeo I"), 44 F.3d 141, 145 (2d Cir. 1995). Courts must also balance against the weight of the presumption any countervailing factors, such as "the privacy interests of those resisting disclosure"—including "the degree to which the subject matter is traditionally considered private rather than public"—and the "nature and degree of injury" resulting from disclosure. *See Lugosch*, 435 F.3d at 120; *United States v. Amodeo* ("Amodeo II"), 71 F.3d 1044, 1050–51 (2d Cir. 1995).

Respectfully submitted,

/s/ Lewis R. Clayton

Lewis R. Clayton

cc: All Counsel of Record (by ECF Filing)

SO ORDERED:  
  
HON. ANDREW L. CARTER, JR.  
UNITED STATES DISTRICT JUDGE

February 12, 2021